



PROCUREMENT POLICY & PROCEDURE DIRECTIVE

SUBJECT: RATIFICATION OF UNAUTHORIZED COMMITMENTS

ORIGINATING OFFICE: OFFICE OF CONTRACTING & PROCUREMENT

1. **PURPOSE:** The purpose of this Policy and Procedure Directive (Directive) is to establish procedures for the ratification of unauthorized commitments.
2. **AUTHORITY:** This Directive is being promulgated pursuant to:
 - 2.1 Section 202(b) of the *District of Columbia Procurement Practices Act of 1985* ("PPA"), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §2-302.02(b)); and
 - 2.2 The *Procurement Practices Vendor Payment Authorization Amendment Act of 2002*, effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)).
3. **APPLICABILITY:** This Directive shall apply to the Office of Contracting and Procurement (OCP) and all agencies of the District government that contract pursuant to the provisions of the PPA, as amended.
4. **DEFINITIONS:**
 - 4.1 **Agency Director.** The Agency Director includes the principal officer, director or commissioner of an office, department, board, commission or other entity within the District government, or the principal executive officer of an independent agency of the District government.
 - 4.2 **Contracting Officer.** A Contracting Officer (CO) is the employee authorized in writing by the Chief Procurement Officer to engage in procurement actions to commit the District to procure goods and services.
 - 4.3 **Chief Procurement Officer.** The Chief Procurement Officer (CPO) refers to the position established in section 105 of the PPA (D.C. Official Code §§ 2-301.05).

4.4 Ratification. A ratification is the action by the CPO to authorize payment for goods or services received by the District without a valid written contract.

4.5 Ratification Package. The completed documents that must be approved by either the CPO or Council in order to pay a vendor for an unauthorized commitment.

4.6 Unauthorized Commitment. An unauthorized commitment is the acceptance by the District of Columbia of goods or services without a valid written contract.

5. GENERAL RULES PROHIBITING UNAUTHORIZED COMMITMENTS:

5.1. General Rules.

5.1.1 No District employee shall authorize payment for the value of goods or services received without a valid written contract.

(a) **Exception.** This provision does not apply to a payment required by court order, a final decision of the Contract Appeals Board, or ratification approved by the CPO or Council in accordance with subsection **5.4 and 5.5** of this directive.

5.1.2 No District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract.

(a) **Termination of the Responsible Employee.** Any violation of this subsection shall be cause for the employee's termination. (D.C. Official Code § 2-301.05(d)(2)).

(b) **Termination of a Supervisor.** If a District employee, at the direction of a supervisor, entered into the oral agreement, the supervisor shall be terminated. (D.C. Official Code § 2-301.05(d)(3)).

5.1.3 Except as authorized by subsections **5.1.1 (a), 5.4 and 5.5** of this Directive, any vendor who enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid.

5.2 Avoidance of Unauthorized Commitments.

5.2.1 The following affirmative steps should be taken by an Agency Director to prevent the receipt of goods and services without a valid written contract:

- (a) **Procurement Planning.** An Agency Director should conduct proper procurement planning to ensure that contractual arrangements for necessary goods and services are made in a timely manner.
- (b) **Agency Notification.** An Agency Director should post the Agency Director Notification Memorandum (Appendix K) within the agency to inform employees that purchasing goods and services without a valid written contract is prohibited.
- (c) **Disciplinary Action.** An Agency Director should ensure that the appropriate disciplinary action, if any, is initiated against the employee responsible for an unauthorized commitment pursuant to subsection 5.2 of this Directive.

5.3 General Rules Concerning the Ratification of Unauthorized Commitments by the CPO.

- 5.3.1 The CPO, or designee, shall review and verify an Agency Director's Ratification Package.
- 5.3.2 **Proof of Disciplinary Action.** Each Ratification Package shall include written notification describing the disciplinary action taken, if any, by the relevant personnel authority against the employee who authorized the payment or delivery of goods or services without a valid written contract. If the CPO is the relevant personnel authority, he or she shall describe in writing the disciplinary action taken, if any. To the extent that no disciplinary action was taken, the Agency Director shall detail why no action was taken (Appendix C: Form B, subsection d.).
 - (a) **Unauthorized Commitments of the Chief Procurement Officer.** If the employee who authorized payment or delivery of goods or services without a valid written contract is the CPO, the matter shall be referred to the Mayor for appropriate disciplinary action. The Mayor shall state in writing the disciplinary action taken before the CPO approves or disapproves the payment request.
 - (b) **Responsible Employee's Right of Privacy.** Any information required by this Directive concerning disciplinary action imposed against the responsible employee shall maintain the employee's privacy by not identifying his or her name, title, grade or address.

5.4 Chief Procurement Officer's Ratification Authority.

The CPO, or designee, may authorize payment for goods or services received without a valid written contract if:

- (a) **Benefit Received.** The goods or services have been provided to and accepted by the District government, or the District government otherwise has obtained or will obtain a benefit resulting from the provision of goods or services without a valid written contract.
- (b) **Fair and Reasonable Price.** The CO has determined that the price for the goods or services provided without a valid written contract is fair and reasonable.
- (c) **Recommended Payment.** The CO has recommended payment for the goods or services provided without a valid written contract.
- (d) **Available Funds.** The Agency CFO, or designee, has certified that appropriated funds are available to pay the full amount.
- (e) **Ratification Requests Within the CPO's Authority.** The dollar value of the goods or services provided to and accepted by the District government does not exceed \$100,000, and the request being reviewed is either the first or second request considered by the CPO on the vendor's behalf.
- (f) **Other Procedures or Limitations.** The request for payment for the goods or services received without a valid written contract is in accordance with other procedures or limitations prescribed by the CPO.

5.5 Ratification of Unauthorized Commitments by the Council.

For a Ratification Package that either exceeds \$100,000 or is after the first two (2) requests submitted and approved on a vendor's behalf, the Ratification Package must first be approved by the Council before the CPO is authorized to take final action on Ratification Package.

6. RATIFICATION PACKAGE PREPARATION AND TRANSMITTAL PROCESS:

6.1 Ratification Packages Subject to CPO Approval.

6.1.1 An agency's Ratification Package for CPO approval shall contain the original and five (5) copies of the following:

- (a) A transmittal or cover letter from the Agency Director to the CPO;

- (b) Completed OCP Forms A through C;
- (c) A copy of the original contract or purchase order, if any;
- (d) Invoices;
- (e) Timesheets, if any;
- (f) Receipts, if any;
- (g) Relevant correspondence, if any;
- (h) CFO funding certification indicating that the agency has sufficient funding available with which to pay this ratification and acknowledging that it will not be paid by the Agency until after receiving the CPO or Council approval of the Ratification Package; and
- (i) Any other pertinent documents substantiating the Ratification Package.

6.2 Preparation.

6.2.1 Agency Representative Ratification Request and Certification Form (Appendix B: OCP Form A,) shall be prepared by the agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment.

- (a) OCP Form A shall include:
 - (i) A statement indicating why the responsible employee (not identified by name, title, grade or address) did not follow normal contracting procedures to procure the goods or services in question;
 - (ii) A statement describing the government requirement or need that caused the unauthorized commitment to be made;
 - (iii) A statement describing the goods or services provided to and accepted by the District, or the benefit received;
 - (iv) A statement indicating the dollar value of the goods or services provided to and accepted by the District or the benefit received.

The ratification must include the entire claim from the vendor;

- (v) A statement describing any pertinent facts and information pertaining to the unauthorized commitment; and
- (vi) The signature of an agency representative (other than the responsible employee) with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment.

6.2.2 Agency Director Ratification Request and Certification Form. An Agency Director Ratification Request and Certification Form (Appendix C: OCP Form B) shall be prepared by the Director of the Agency that received the goods or services in question.

(a) OCP Form B shall:

- (i) Verify and attest to the fact that goods or services were received by the agency;
- (ii) Verify and attest to the fact that the amount claimed by the vendor is consistent with the agreement to provide goods or services for which payment is claimed and agreed upon;
- (iii) Describe any disciplinary action taken by the relevant personnel authority against the responsible employee without identifying the employee's name, title, grade or address;
- (iv) Include a written description of the steps taken by the Agency Director to prevent a recurrence of unauthorized commitments in the future;
- (v) Include the number of unauthorized commitments that do not exceed \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003;
- (vi) Include the number of unauthorized commitments exceeding \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003;
- (vii) Include a certification from the Agency's Chief Financial Officer verifying that appropriated funds are available to pay the requested

amount;

- (viii) Include a statement describing why the goods or services were requested or authorized;
- (ix) Include a statement describing why the procurement action was not authorized;
- (x) Include a statement that addressed whether the employee responsible has received written notification of the disciplinary action taken against him or her; and
- (xi) Include a statement and an explanation that describes the number of unauthorized commitments submitted by the agency within the last twelve (12) months.

6.2.3 Contracting Officer Determination and Findings Statement. The CO shall complete the Contracting Officer Determination and Findings Statement (Appendix D, OCP Form C). The CO has up to 5 business days from the date of receipt of the Ratification Package from the Agency to submit the package to the Ratification Committee Coordinator or return the package to the agency.

(a) OCP Form C shall include:

- (i) A determination of whether the unauthorized commitment could have resulted in a properly executed contract;
- (ii) A determination of whether funds are available to pay for the goods or services, as certified by the agency's Chief Financial Officer;
- (iii) A determination of whether the amount to be paid for the goods or services is fair and reasonable, and the basis for the determination; and
- (iv) Any other relevant information that should be taken into consideration in determining whether the Ratification Package should be approved or denied.

6.2.4 Settlement Agreement Procedures

(a) Before the ratification is approved, the CO shall provide a copy of the Settlement and Release Form (Appendix L, OCP Form I) to the vendor and

advise the vendor that it will be required to sign and return three (3) original copies to the CPO and relevant agency if the ratification is approved.

(b) Once the CO has been notified that a ratification request has been approved, the CO shall obtain three executed copies of the Settlement Agreement from the vendor.

(c) The CO shall obtain the signatures of the Agency Director and the CPO prior to submitting the payment request to the CFO.

(d) Upon payment, the CO shall provide a fully executed original copy to the vendor, the agency and the ratification file.

6.3 Ratification Packages Subject to Council Approval.

6.3.1 An agency shall forward its Ratification Package to the CPO for review prior to its transmittal to the Council.

6.3.2 An agency's Ratification Package for Council approval shall contain the original and five (5) copies of the following:

- (a) The documents listed under subsection 6.1.1;
- (b) The legislative transmittal documents (see Appendix E) prepared by the agency, including a transmittal letter to the Council Chairman from the Mayor, in electronic and hard copy;
- (c) A proposed bill and emergency declaration resolution in electronic copy; and
- (d) The transmittal letter from OCP to the Commercial Division of the Office of the Attorney General.

6.3.3 The CPO shall be responsible for forwarding the Ratification Package to the Mayor for transmittal to the Council.

6.4 OCP Ratification Committee.

6.4.1 There is hereby established an OCP Ratification Committee (Committee).

6.4.2 **Membership.** The Committee may consist of the following members:

- (a) One (1) Chairperson as designated by the CPO (voting);
- (b) Two (2) OCP senior staff members as designated by the CPO (voting);
- (c) One (1) representative from the Office of the General Counsel (non-voting);
and
- (d) The Committee Coordinator (non-voting)

6.4.3 **Meetings.** The Committee will hold meetings on an as-needed basis. In addition to the Committee members, the following people must also be in attendance at the meetings:

- (a) The CO who would have the responsibility for procuring the goods or services in question if a procurement were conducted (non-voting);
- (b) One (1) agency representative (other than the responsible employee and the CO, non-voting).

6.4.4 **Ratification Committee Coordinator.** The Ratification Committee Coordinator is responsible for scheduling the Ratification Committee meetings and for receiving the Ratification Packages. Additional responsibilities include:

- (a) Receiving and reviewing each package submitted to ensure that it includes the original Ratification Package and five (5) copies;
- (b) Assigning a ratification request database identification number and providing a date/time notation on the Ratification Package indicating the date and time the Ratification Committee Coordinator received the package;
- (c) Reviewing the package to ensure completeness and conformity with this Directive and if the Ratification Package is not complete or in conformity the Ratification Committee Coordinator shall return it to the appropriate CO for correction;
- (d) Scheduling Committee meetings, with the input from the Committee Chair;
- (e) Transmitting by e-mail Committee hearing notices and distributing copies of the Ratification Package to the Committee members;
- (f) Attending Committee meetings and taking notes of the proceedings and the decisions made by the Committee;

- (g) Recording the Committee's decision on the Ratification Package into the ratification database;
- (h) Preparing the Committee recommendation form and, if necessary, forwarding it to the agency for corrective action;
- (i) Preparing Committee Ratification Package memorandum for the Agency Director;
- (j) Preparing CPO approval letters and forward to Agency Director by e-mail; and
- (k) Closing out and maintaining the ratification files; and
- (l) Preparing and forwarding packages requiring Council approval.

6.4.5 **Ratification Committee Responsibilities.** The Committee shall review and consider each Ratification Package, and recommend to the CPO whether a request should be approved, conditionally approved, denied, or sent to the Mayor for Council approval.

6.4.6 **CPO Authority.** The CPO reserves the right to approve or disapprove any Ratification Package without review or recommendation by the OCP Ratification Committee.

6.4.7 **Ratification Committee Chairperson Authority.** The Ratification Committee Chairperson is responsible for the overall control, facilitation and organization of Committee meetings, serving in a supervisory role that maintains oversight and approval authority of the Ratification Committee Coordinator. Additional responsibilities include:

- (a) Reviewing the package to ensure completeness and conformity with this Directive. If the Ratification Package is not complete or in conformity, the Ratification Committee Coordinator shall return it to the appropriate CO for correction;
- (b) Preparing the Committee recommendation form and, if necessary, forwarding it to the agency for corrective action.

6.5. Ratification Approval Process.

6.5.1 Factors to Be Considered. The Committee shall consider each of the following factors before recommending the approval, conditional approval, or denial of a Ratification Package:

- (a) Whether the facts and circumstances of each request support the payment;
- (b) Whether goods or services have been provided to and accepted by the District government without a valid written contract;
- (c) Whether the District government has obtained or will obtain a benefit resulting from the provision of goods or services without a valid written contract;
- (d) Whether the CO has determined that the amount to be paid for the goods or services is fair and reasonable;
- (e) Whether the CO has recommended payment;
- (f) Whether the agency CFO, or his or her designee, has certified that appropriated funds are available to pay the requested amount;
- (g) Whether there is sufficient documentation to support the claimed amount;
- (h) Whether the relevant personnel authority imposed an appropriate disciplinary action against the responsible employee;
- (i) What steps were undertaken by the Agency to prevent a recurrence of unauthorized commitments in the future; and
- (j) Whether the Ratification Package is in accordance with any other procedures or limitations prescribed by the CPO.

6.5.2 Ratification Committee Vote. A vote by the Committee recommending approval, conditional approval, or denial of a Ratification Package:

- (a) Shall be by a majority of the members present and voting;
- (b) The result shall be forwarded to the CPO for final action;

- (c) The result shall be forwarded to Mayor for transmittal to the Council, in the case of Ratification Package requiring Council approval;
- (d) Shall not bind the CPO from taking any specific action; and
- (e) Shall be documented by completing the OCP Ratification Request Committee Recommendation Form. (Appendix G, OCP Form F,)

6.5.3 Conditionally Approved Ratification Packages. If a Ratification Package has been given a conditional approval by the Committee:

- (a) The Ratification Committee Coordinator will return the Ratification Package to the CO so that the revisions required by the Committee can be made;
- (b) Unless otherwise stated, the CO has five (5) working days from receipt of the Ratification Package from the Ratification Committee Coordinator to resubmit it to the Ratification Committee Coordinator. The Coordinator will return the package to the Committee Chair for a final review and submission of recommendations to the CPO; and
- (c) If the revised Ratification Package is not resubmitted within the five (5) working days, the Committee's conditional approval of the Ratification Package will become a denial.

6.5.4 Chief Procurement Officer Determinations. The CPO shall review the Ratification Package and the recommendation of the Ratification Committee and make a final decision to approve or deny the ratification request.

6.5.5 The CPO shall approve any ratification request that has received the prior authorization of the Council and the request shall be processed in the manner described in subsection 6.5.6 (a) through (c) of this directive.

6.5.6 Agency Director and Vendor Notification of the CPO's Final Decision. Once the CPO makes a final decision approving or denying a Ratification Package is made, the CPO shall:

- (a) Complete either the Chief Procurement Officer Ratification Request Final Determination Approval/Conditional Approval Memorandum (Appendix H, OCP Form F,), or the Chief Procurement Officer Ratification Request Final Determination Disapproval Memorandum (Appendix I, OCP Form G,):

(b) Return the original ratification file and the approval or disapproval letter to the Ratification Committee Coordinator; and

(c) Direct the CO to inform the vendor of the final decision.

6.6 Vendor Ratification Notification Process. Once the CO has been notified of the final decision, the CO shall advise the vendor in writing of the final decision and obtain three executed copies of the Settlement and Release Agreement from the vendor.

6.7 Vendor Payment Provision. Vendor with contracts of \$100,000 or more shall not be paid by the agency CFO until the CO determines that the vendor is current with its District tax obligations and the Settlement & Release Agreements are received from the vendor. This provision does not apply to contracts under \$100,000.

6.8 Ratification Package Reports. The CPO shall submit a ratification report to the Council Chairman at least four (4) times each year, which shall include a list of the number of persons cited or terminated under subsection **5.1.2** of this Directive.

7. APPENDICES:

7.1 Appendix A: Lists of documents included in an Agency's Ratification Package for consideration by the CPO and the Council.

7.2 Appendix B: The Agency Representative Ratification Request and Certification Form. (OCP Form A)

7.3 Appendix C: The Agency Director Ratification Request and Certification Form. (OCP Form B)

7.4 Appendix D: The CO Determination and Findings Statement. (OCP Form C)

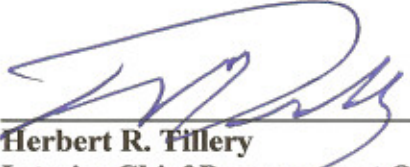
7.5 Appendix E: Sample Legislative Transmittal Documents, including:

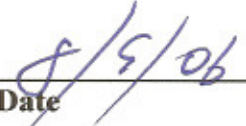
7.5.1 A sample transmittal letter to the Council Chairman from the Mayor (Appendix 1E);

7.5.2 A sample emergency declaration resolution (Appendix 2E)

7.5.3 A sample proposed emergency bill (Appendix 3E).

- 7.6 **Appendix F:** Sample OCP Ratification Committee Meeting Notice. (OCP Form D)
 - 7.7 **Appendix G:** OCP Ratification Request Committee Recommendation Form. (OCP Form E)
 - 7.8 **Appendix H:** Sample CPO Ratification Package Final Determination Approval Memorandum. (OCP Form F)
 - 7.9 **Appendix I:** Sample CPO Ratification Package Final Determination Disapproval Memorandum. (OCP Form G)
 - 7.10 **Appendix J:** Sample CPO Ratification Package Transmittal Memorandum. (OCP Form H)
 - 7.11 **Appendix K:** Sample Agency Director Notification Memorandum advising agency employees that purchasing goods or services without a valid written contract is prohibited.
 - 7.12 **Appendix L:** Sample Settlement and Release Form. (OCP Form I)
8. **AMENDS OR SUPERSEDES:** This Directive supersedes Directive Number 1800.03 (effective August 11, 2003).
9. **EFFECTIVE DATE:** This Directive shall become effective on the date of issuance.
10. **EXPIRATION DATE:** This Directive shall remain in effect until rescinded.


Herbert R. Tillery
Interim Chief Procurement Officer


Date

Appendix A

Lists of Documents included in an Agency's Ratification Package (2 pages)



**RATIFICATION PACKAGES TO BE APPROVED BY
THE CHIEF PROCUREMENT OFFICER**

If the Ratification Package does not exceed \$100,000, and is the first or second request considered by the CPO on a vendor's behalf, submit the original and five (5) copies of the following:

- ___ a) A transmittal or cover letter from the agency director to the CPO;
- ___ b) OCP Form A (Agency Representative Ratification Request and Certification Form);
- ___ c) OCP Form B (Agency Director Ratification Request and Certification Form);
- ___ d) OCP Form C (Contracting Officer Determination and Findings Statement);
- ___ e) A copy of the original contract, if any;
- ___ f) A copy of the invoices;
- ___ g) A copy of the timesheets, if any;
- ___ h) A copy of the receipts, if any;
- ___ i) A copy of all relevant correspondence and memoranda;
- ___ j) A CFO funding certification indicating the following: "The Agency has sufficient funding available with which to pay this ratification and acknowledging that it will not be paid by the agency until after receiving the CPO or Council approval of the Ratification Package";
- ___ k) A copy of any other pertinent documents substantiating the ratification package;

Please check each item before submitting your Ratification Package. Do not file this document with your official package.



RATIFICATION PACKAGES TO BE APPROVED BY THE COUNCIL

If the Ratification Package exceeds \$100,000 or if more than two (2) requests have previously been approved by the CPO on the vendor's behalf, submit the original and five (5) copies of the following documents to the CPO for transmittal to the Mayor for Council review:

- ___ a) The Legislative Transmittal Documents completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a proposed bill and emergency declaration resolution. (Appendix E)
- ___ b) A transmittal or cover letter from the agency director to the CPO;
- ___ c) A transmittal letter from the OCP to the Commercial Division of OAG;
- ___ d) OCP Form A (Agency Representative Ratification Request and Certification Form);
- ___ e) OCP Form B (Agency Director Ratification Request and Certification Form);
- ___ f) OCP Form C (Contracting Officer Determination and Findings Statement);
- ___ g) A copy of the original contract, if any;
- ___ h) A copy of the invoices;
- ___ i) A copy of the timesheets, if any;
- ___ j) A copy of the receipts, if any;
- ___ k) A copy of all relevant correspondence and memoranda;
- ___ l) A CFO funding certification indicating the following: "The agency has sufficient funding available with which to pay this ratification and an acknowledgement that it will not be paid by the agency until after receiving the CPO or Council approval of the Ratification Package"; and
- ___ m) A copy of any other pertinent documents substantiating the Ratification Package; and

Please check each item before submitting your ratification request package. Do not file this document with your official package.

Appendix B

OCP Form A

**Agency Representative Ratification Request and Certification Form
(2 pages)**

**AGENCY REPRESENTATIVE RATIFICATION REQUEST AND
CERTIFICATION FORM**

I _____, hereby certify that the _____
(Agency Representative) *(Agency Name)*
received the following goods or services from _____:
(Name of Vendor)

(Description of goods or services)

The goods were received by the agency on or about _____
(Date)
or the services were received by the agency from _____
(Date)
through _____.
(Date)

The total amount for the goods or services is \$ _____. I certify that the total
(Enter Amount)

amount to be paid for the goods or services is fair and reasonable.

CIRCUMSTANCES REGARDING THE NEED FOR THIS RATIFICATION ACTION:

a) Describe why the normal procurement procedures were not followed.

b) Describe the specific District requirement or need that caused the unauthorized commitment to be made.

c) Describe the goods or services provided to and accepted by the District and the benefit received by the District as a result of the transaction.

d) Please provide any other pertinent facts or information.

e) Are there any shipping records, invoices, orders, or requests for payment or other documentary evidence of the transaction? ☐ YES ☐ NO

Is the documentary evidence attached to this form? ☐ YES ☐ NO

PREPARER CERTIFICATION

I, the Agency Representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment, further certify that the information, circumstances and details described above are complete, accurate and true, and hereby request that the Chief Procurement Officer approve this ratification request for payment for the goods or services received.

Print Name of Agency Representative

Signature

Date

Appendix C

OCP Form B

**Agency Director Ratification Request and Certification Form
(2 pages)**

**AGENCY DIRECTOR RATIFICATION REQUEST AND
CERTIFICATION FORM**

I, _____, hereby certify, based upon the certification of
(Agency Director)

_____, that the _____,
(Agency Representative) *(Agency Name)*

received the following goods or services from _____:
(Vendor Name)

_____.
(Description of goods or services)

The goods were received by the agency on or about _____
(Date)

or the services were received by the agency from _____
(Date)

through _____.
(Date)

I further certify, based upon the certifications of a) _____,
(Agency Representative)

and b) _____ that the amount requested to pay the vendor,
(Contracting Officer)

\$ _____, is consistent with the agreement to provide the goods or services
(Dollar Amount)

for which payment is claimed and agreed upon.

CIRCUMSTANCES REGARDING THE NEED FOR THIS RATIFICATION ACTION:

a) The reasons(s) why the goods or services were requested or authorized.

b) The reason(s) why the procurement action was/were not authorized? _____

c) Steps taken to prevent unauthorized commitments in the future.

d) Has any disciplinary action been taken against the employee responsible for this ratification request? ☐ YES ☐ NO

If "yes", please describe the disciplinary action, if any, taken against the employee. (Do not include the employee's name, title, grade or address). If "no", why?

e) Has the employee responsible for this ratification request received written notification of the disciplinary action taken against him or her? ☐ YES ☐ NO

f) Provide the number of unauthorized commitments not exceeding \$100,000 (excluding this one) submitted by your agency on the vendor's behalf since April 4, 2003. _____

g) Provide the number of unauthorized commitments exceeding \$100,000 submitted by your agency on the vendor's behalf since April 4, 2003. _____

h) Provide the number of unauthorized commitments submitted by your agency within the last twelve (12) months. _____

AGENCY DIRECTOR CERTIFICATION

I further certify that my agency has budget authority to pay the above-stated amount. Upon being notified by the Chief Procurement Officer that the unauthorized commitment has been ratified, my agency will promptly prepare and forward the appropriate payment document(s) to the agency Chief Financial Officer.

Date

Signature of Agency Director

AGENCY CHIEF FINANCIAL OFFICER/CONTROLLER CERTIFICATION

I ☐ agree ☐ disagree that the agency has sufficient appropriated funds to pay the requested amount upon the Chief Procurement Officer's ratification of the unauthorized commitment.

Date

Signature of Agency CFO/Controller

Appendix D

OCP Form C

**Contracting Officer Determination and Findings Statement
(1 page)**

**CONTRACTING OFFICER
DETERMINATION AND FINDINGS STATEMENT**

I, _____, hereby certify, based upon the information
(Contracting Officer)
provided by _____ for _____,
(Agency Representative) (Agency Name)
pertaining to the following goods or services: _____
(Description of goods or services)
from _____ received by the agency on or about _____,
(Vendor Name) (Date or timeframe)

and have determined that:

- a) The unauthorized commitment () could () could not have resulted in a properly executed contract.

- b) Appropriated funds () are () are not available as certified by the Agency Chief Financial Officer.

- c) The total amount to be paid for the goods or services () is () is not fair and reasonable and is supported by the following explanation.

(Provide price reasonableness justification here. No other D&F is necessary)

- d) There () is () is no other relevant information that should be taken into consideration in determining appropriate action on the ratification request.

CERTIFICATION OF CONTRACTING OFFICER:

I hereby certify that the information provided above is accurate and complete, that the amount to be paid is fair and reasonable and I recommend payment for the goods/services provided without a valid contract.

Date

Contracting Officer Signature

Appendix E

LEGISLATIVE TRANSMITTAL DOCUMENTS

Sample Transmittal Letter to the Council Chairman from the Mayor (Attachment 1E)

Sample Emergency Declaration Resolution (Attachment 2E);

A Sample Proposed Emergency Bill (Attachment 3E)

(4 pages)

(Must be provided in electronic and hard copy)

Sample Transmittal Letter to the Council Chairman from the Mayor

[Date]

The Honorable Linda W. Cropp
Chairmember
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairmember Cropp:

Enclosed for consideration and approval by the Council of the District of Columbia is proposed emergency legislation to approve payment to "[ABC, Inc.] for [goods/services] received without a valid written contract.

This payment request is being transmitted for Council approval pursuant to section 105 (d) of the "*Procurement Practices Act of 1985*," effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.05(d)). That law requires Council review and approval of payments for goods or services received without a valid written contract if the payment request exceeds \$100,000 or if the Chief Procurement Officer has previously considered two requests for that same vendor.

The payment request is for [\$101,000]. Since the request [exceeds \$100,000] or, [and is the third such request submitted on behalf of [ABC, Inc.] since April 4, 2003,] Council approval is required. Approval of this request would allow the vendor to be paid for [information technology services] provided to the [Department of XYZ] without a valid written contract.

I urge you to take prompt and favorable action on the enclosed legislation.

Sincerely,

Anthony A. Williams

Enclosures

AAW/nh

Chairman Linda W. Cropp,
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to authorize payment to [ABC, Inc.] for [goods/services] provided to the [Department of XYZ] without a valid written contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That
this resolution may be cited as the “[ABC, Inc.] Payment Authorization Emergency Declaration Resolution of 200[]”.

Sec. 2. (a) [Insert description of circumstances that support emergency declaration, using as many paragraphs as necessary.]

(b)

(c)

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the “[ABC, Inc.] Payment Authorization Emergency Act of 200[]” be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately

1 A BILL
2
3
4
5

6 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
7
8
9

10
11 To authorize on an emergency basis, payment to [ABC, Inc.] for [goods/services] provided
12 to the [Department of XYZ] without a valid written contract.
13

14 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act
15 may be cited as the “[ABC, Inc.] Payment Authorization Emergency Act of 2004”.

16 Sec. 2. Pursuant to section 105(d) of the District of Columbia Procurement Practices Act of
17 1985, effective February 21, 1986 (D..Law 16-85), the Council hereby authorizes the
18 [Department of XYZ] to pay [ABC, Inc. \$101,000] for [goods/services] received [on April 5,
19 2003] without a valid written contract.

20 Sec. 3. The Council adopts the fiscal impact statement provided by the Chief Financial
21 Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
22 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
23 206.02(c)(3)).

24 Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by
25 the Mayor, action by the Council to override the veto), and shall remain in effect for no longer
26 than 90 days, as provided for emergency acts of the Council of the District of Colombia in
27 section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87
28 Stat. 788; D.C. Official Code § 1-204.12 (a)). review as provided in section 602(c)(1) of the
29 District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official

30 Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

31

Appendix F

Sample OCP Ratification Committee Meeting Notice (OCP Form D) (1 page)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Director

FROM: Ratification Committee Coordinator, OCP

SUBJECT: OCP Ratification Committee Meeting Notice

DATE:

The OCP Ratification Committee has scheduled a meeting to consider the following Ratification Package filed by the [agency name]:

<u>ID Number</u>	<u>Vendor Name</u>	<u>Requested Amount</u>
1	ABC, Inc.	\$ 60,163.63

The meeting will be held on September 10, 2003, at 2:00 pm, in the Office of Contracting and Procurement, Room 700S (South Conference Room), at 441 4th Street, NW.

Also, please be advised that:

- 1) The Contracting Officer's attendance is required, and a failure to appear will result in the postponement of the Committee's consideration.
- 2) The attendance of an agency representative (other than the responsible employee) with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment, is required, and a failure to appear will result in the postponement of the Committee's consideration.
- 3) Any new or additional documentary information supporting the request should be brought to the meeting.
- 4) Your agency Chief Financial Officer should be informed of the meeting date, time and location, but is not required to attend.

Please feel free to contact me at (202) 724-4785 if you have any questions regarding this matter.

Appendix G

**OCP Ratification Request Committee Recommendation Form
(OCP Form E)
(2 pages)**

OCP Ratification Request Committee Recommendation Form		ID No.:
		Date:
		Amt. Requested: \$
		Amt. Approved:
AGENCY:	RESPONSIBLE EMPLOYEE REPRIMAND: <input type="checkbox"/> YES <input type="checkbox"/> NO	
Contracting Officer:	VENDOR:	
	Number of unauthorized commitments exceeding \$100,000 submitted by the agency on behalf of the vendor since 4/04/03:	
<i>Has remedial action been taken to prevent recurrences? If yes, describe.</i> <input type="checkbox"/> YES <input type="checkbox"/> NO		
Was an adverse personnel action taken against the responsible employee(s)? <input type="checkbox"/> YES <input type="checkbox"/> NO		

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<p>RECOMMENDATION:</p> <p><input type="checkbox"/> APPROVAL</p> <p><input type="checkbox"/> CONDITIONAL APPROVAL</p> <p><input type="checkbox"/> DISAPPROVAL</p> <hr/> <p>Miscellaneous: Please note that payment is not authorized until the Committee has received the requested changes, and an approval letter has been issued by the Chief Procurement Officer.</p> <p><u>Certification:</u></p> <p>The Chairman certifies that the conditions imposed by the Committee have been satisfied.</p> <p>_____</p> <p>_____ Date</p>	<p>EXPLANATION:</p> <p><u>Agency Representative Form:</u></p> <p><u>Agency Director Form:</u></p> <p><u>Other:</u></p> <p><u>Note:</u></p>
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Appendix H

**Sample
Chief Procurement Officer Ratification Package Final Determination
Approval Memorandum
(OCP Form F)
(1 page)**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement**



MEMORANDUM

TO: Agency Director
 Department of XYZ

 Agency CFO
 Department of XYZ

FROM: Chief Procurement Officer

SUBJECT: Approval of Ratification Request #1 (ABC, Inc.)

DATE:

The purpose of this memorandum is to inform you that, upon reviewing the recommendation of OCP's Ratification Committee, I have approved the Ratification Package submitted by the Department of XYZ on behalf of ABC, Inc. for \$60,163.63.

With this letter the agency CFO is now granted approval to pay the vendor using the direct voucher process.

Your agency contracting officer will inform ABC, Inc. that the Ratification Package has been approved.

Please feel free to contact me at (202) 724-0252 if you have any questions.

cc: Contracting Officer

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**Appendix I
OCP Form G
Sample
Chief Procurement Officer Ratification Package Final Determination
Disapproval Memorandum
(1 page)**

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Director
Department of XYZ

Agency CFO
Department XYZ

FROM: Chief Procurement Officer

SUBJECT: Disapproval of Ratification Package #3 (ABC, Inc.)

DATE:

Please be advised that the ratification request filed by your agency on behalf of ABC, Inc. in the amount of \$61,163.63 has been denied. Please review the attached form, **NAME OF FORM**.

The contracting officer will advise the vendor that the Ratification Package has been denied.

cc: Contracting Officer
OCP Ratification Request File

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Appendix J

**Sample
Chief Procurement Officer Ratification Package Transmittal Memorandum
(OCP Form H)
(1 page)**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Director
Department of XYZ

FROM: Herbert R. Tillery
Interim Chief Procurement Officer

SUBJECT: Transmittal of Ratification Package to the Council

DATE:

The purpose of this memorandum is to inform you that your agency's Ratification Package submitted on behalf of ABC, Inc. for \$101,000 was forwarded to the Mayor for transmittal to the Council as required by the Procurement Practices Vendor Payment Authorization Amendment Act of 2002, effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires the Council to review and approve ratification requests exceeding \$100,000, as well as any ratification request for a vendor if the Chief Procurement Officer has previously approved two (2) requests on that vendor's behalf.

Please feel free to contact me at (202) 727-0252 if you have any questions.

cc: Contracting Officer
OCP Ratification Request File

Appendix K

**Sample
Agency Director Notification Memorandum
Advising Agency Employees that Purchasing Goods or Services Without a
Valid Written Contract is Prohibited
(2 pages)**

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Sample Notification Memorandum

TO: Agency Staff

FROM: Agency Director

SUBJECT: Prohibition Against Purchases of Goods or Services Without a Valid Written Contract

DATE:

Section 105 of the *District of Columbia Procurement Practices Act of 1985* (PPA), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §2-301.05), makes the District's Chief Procurement Officer (CPO) the exclusive contracting authority for procurements in agencies under the Mayor's authority. As such, the CPO is authorized to delegate contracting authority to either a contracting officer or contract specialist.

The PPA also imposes limitations on the way in which goods and services may be procured on behalf of the District. For example, the PPA generally provides that:

- No District employee shall authorize payment for the value of goods or services received without a valid written contract. (This prohibition does not apply to a payment required by court order, a final decision of the Contract Appeals Board, or approval by the CPO.)
- No District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract. Any violation of this prohibition shall be cause for the employee's termination.
- Any vendor who enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid. If the oral agreement was entered into by a District employee at the direction of a supervisor, the supervisor shall be terminated.
- The CPO may authorize payment for goods or services received without a valid written contract if: (i) the payment request does not exceed \$100,000; and (ii) no more than two (2) such requests have been submitted on a vendor's behalf to the CPO.
- Unauthorized commitments above \$100,000 and those submitted after the first two (2)

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have been considered by the CPO shall be forwarded to the Mayor (by the CPO) for transmittal to the Council for its review and approval.

The purpose of this memorandum is to remind all employees that goods and services should not be procured without a properly executed contract or purchase order. Any employee in [agency name] who fails to comply with the District's procurement laws and regulations may be subjected to an adverse personnel action in accordance with District personnel rules that could include a reprimand, suspension or termination. The CPO cannot consider an agency's ratification request to approve an unauthorized commitment until he receives written notification of the disciplinary action taken, if any, against the responsible employee, if any. (Due to the right of privacy and personnel regulations, the employee's name, title, grade and address cannot be disclosed to the public).

Please feel free to contact _____ with my office at (202) _____ if you have any questions regarding this important issue.

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Appendix L

**Sample
Settlement and Release Form (OCP Form I)
(3 pages)**

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is entered by and between (Vendor Full Name) and the District of Columbia, by and through its authorized representatives (collectively the "Parties"). This Agreement shall be effective on the date of its execution by the District of Columbia ("Effective Date").

WITNESSETH:

WHEREAS, (Vendor Full Name) ("*Vendor Short name*") is a (state of incorporation) corporation with a place of business at (local business address); and

WHEREAS, the District of Columbia ("District") is a municipal corporation; and

WHEREAS, (Vendor) has provided (Description of goods or services) to (Agency Name) without a valid written contract; and

WHEREAS, the District has accepted those **[goods][services]**; and

WHEREAS, [the goods were provided to the agency on or about _____, 20__]OR [the services were provided to the agency from _____, 20__ through _____, 20__]; and **WHEREAS**, the total value of the **[goods][services]** is _____ Dollars and __cents (\$____.__); and

WHEREAS, Vendor submitted a claim against the District seeking amounts due pursuant to this unauthorized commitment ("Claim"); and

WHEREAS, the Parties hereto have determined that settlement of the Claim is in their mutual best interests, and

WHEREAS, the **[District's Chief Procurement Officer, or his designee or D.C.**

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Council authorized payment to Vendor for the Claim in accordance with D.C. Official Code §2-301.05(d).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration as hereinafter recited, the receipt and adequacy of which is hereby acknowledged, it is hereby agreed between the Parties fully and finally, with the intent to be legally bound, to settle the Claim and to completely dispose of all existing or potential issues, claims, grievances, and disputes between (Vendor), for itself and for its successors, administrators, executors, assigns, and any other person claiming by, through, or under Vendor, and the District and its agencies, present or former officers, agents, servants, and employees as follows:

1. Payments: Subject to the availability of an appropriation and cash, (Agency Name) agrees to pay (Vendor) the total amount of _____ Dollars and _____ Cents (\$_____.__) in full satisfaction of the Claim, and all other claims, interest, attorneys' fees, costs and expenses incurred in connection with, arising under, or relating to (Vendor)'s Claim. (Agency Name) shall, subject to an appropriation and availability of cash, within thirty (30) calendar days of the Effective Date of this Agreement, process and issue a check in the amount of _____ Dollars and _____ Cents (\$_____.__) made payable to (Vendor).

2. (Vendor) agrees and acknowledges that it is solely responsible for any taxes owed, if any, on the payments made payable to it under this Agreement by any taxing authority, whether federal, state or local. (Vendor) agrees to defend, indemnify and hold harmless the District with respect to any liability to any taxing authority, whether federal, state or local, arising from payments contemplated by this Agreement. (Vendor) acknowledges and understands that the District will report to the U.S. Internal Revenue Service the payment set forth in this Agreement.

3. Payment made in accordance with paragraph 1 of this Agreement shall constitute full and complete compensation in settlement and satisfaction of all agreements, actions, cases, causes of action, claims, compromises, controversies, costs, damages, debts, demands, disputes, expenses, judgments, liabilities, payments, promises, and suits of any nature whatsoever, including attorneys' fees, whether or not known, relating to, arising under, or in connection with (Vendor)'s Claim.

4. In consideration of the premises of this Agreement, and upon receipt of the payment required by paragraph 1, above, (Vendor), its successors and assigns, hereby remise, release and forever discharge the District, its officers, agents, servants and employees, its past and present members and employees of and from all agreements, actions, cases, causes of action, claims, compromises, controversies, costs, damages, debts, demands, disputes, expenses,

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judgments, liabilities, payments, promises, and suits of any nature whatsoever, including attorneys' fees, whether or not known, relating to, arising under, or in connection with (Vendor)'s Claim, without exception, through the Effective Date; the intention hereof being to release the District, its present and former officers, agents, servants or employees, completely, finally and absolutely from all liabilities, whatsoever, arising wholly or partially from (Vendor)'s Claim.

5. In consideration of the premises of this Agreement, (Vendor), its successors and assigns hereby indemnify and hold harmless the District, its officers, agents, servants, employees, successors and assigns, against any and all further claims for damages, costs, attorneys' fees and expenses relating to, arising under, or in connection with amounts due for (Vendor)'s Claim.

6. The District has entered into this Agreement solely for the purpose of avoiding the burdens and expense of litigation, and the making of this Agreement is not intended, and shall not be construed, as an admission that the District or any of its officers, agents, servants, or employees have violated any federal, state or local law (statutory or decisional), ordinance or regulation, breached any contract or committed any wrong, whatsoever, against (Vendor). The Parties further understand and agree that, upon receipt of the payment, neither Party will be considered a "prevailing party" for any reason, including but not limited to, an award of attorneys' fees or costs under any statute or otherwise.

7. The Parties understand and agree that neither this Agreement nor any payments hereunder shall be subject to assignment.

8. This Agreement represents the entire agreement of the Parties. (Vendor) acknowledges and agrees that the District, or any representative, agent or employee of the District, has not made any representation or promise to it other than as set forth herein. No other promises or agreements shall be binding unless in writing and signed by the Parties.

9. This Agreement shall be interpreted in accordance with the laws of the District of Columbia and shall not be construed against either Party as the drafter. In any action arising under, in connection with or relating to this Agreement, the Parties shall be subject to the jurisdiction of the Superior Court of the District of Columbia.

10. The Parties to this Agreement expressly represent and warrant that they are legally competent to execute this Agreement, that they have been fully informed and have had an opportunity to consult counsel concerning the contents and meaning of this Agreement, and that they will take any necessary steps to obtain the requisite approvals to consummate the payment set forth in this Agreement.

11. This Agreement will be executed by the Parties in three (3) identical writings,

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which writings taken together shall constitute one written agreement by and between the Parties.

IN WITNESS WHEREOF, the Parties, by and through their duly authorized representatives, have executed this SETTLEMENT AGREEMENT AND RELEASE on the date following their respective signatures.

DISTRICT OF COLUMBIA

[VENDOR]

By:
Chief Procurement Officer
Office of Contracting and Procurement

By:

Dated: _____, 200_

Dated: _____, 200_

[AGENCY NAME]

By:
Director

Dated: _____, 200_

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***** END OF DOCUMENT *****